



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **CNC**

Introduction

This hearing dealt with the Tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for cancellation of the Landlord's One Month Notice to End Tenancy for Cause (the "One Month Notice") pursuant to Sections 47 and 62 of the Act.

The hearing was conducted via teleconference. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenants did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference. The Landlord was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that he was not recording this dispute resolution hearing.

The Landlord personally served the One Month Notice on February 15, 2022. The Tenants applied for dispute resolution on February 24, 2022. I find that the One Month Notice was served on the Tenants on February 15, 2022 pursuant to Section 88(a) of the Act.

The Tenants were issued the Notice of Dispute Resolution Proceeding package on March 8, 2022, to serve on the Landlord by March 11, 2022 (the "NoDRP package"). The Tenants did not serve the NoDRP package on the Landlord. The Landlord found an evidence reminder in her email junk folder. She called the RTB on June 2, 2022, and an

Information Officer forwarded the NoDRP package to her. I find the Tenants did not serve the NoDRP package on the Landlord.

Issues to be Decided

1. Are the Tenants entitled to cancellation of the Landlord's One Month Notice?
2. If the Tenants are unsuccessful, is the Landlord entitled to an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord confirmed that this tenancy began as a fixed term tenancy on May 1, 2018. The fixed term ended on April 30, 2019, then the tenancy continued on a month-to-month basis. Monthly rent is \$1,150.00 payable on the first day of each month. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the Landlord.

The One Month Notice stated the reason why the Landlord was ending the tenancy was because the Tenants are repeatedly late paying rent. The effective date of the One Month Notice was April 1, 2022.

The Landlord testified that she and the Tenants entered into a Mutual Agreement to End a Tenancy, and she uploaded the #RTB-8 form into documentary evidence. The Tenants agreed to vacate the rental unit on June 30, 2022.

The Landlord stated that the Tenants still owed \$575.00 for June's rent.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

This hearing was conducted pursuant to RTB Rules of Procedure 7.3, in the Tenants' absence, therefore, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Due to non-service of the NoDRP package on the Landlord and also because the Tenants did not attend this hearing to provide evidence about their claim, the Tenants' application to cancel the Landlord's One Month Notice is dismissed without leave to re-apply.

The Landlord and the Tenants have an executed Mutual Agreement to End Tenancy. I grant the Landlord an Order of Possession for the tenancy end date agreed upon between the parties which is June 30, 2022.

Conclusion

The Landlord is granted an Order of Possession effective at 1:00 p.m. on June 30, 2022. The Landlord must serve this Order on the Tenants as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: June 17, 2022

Residential Tenancy Branch